

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Conor O'Shea	Team: Squad #5	CCRB Case #: 201901938	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/27/2019 3:00 PM	Location of Incident: West 135th Street between Edgecombe Avenue and 8th Avenue	Precinct: 32	18 Mo. SOL 8/27/2020	EO SOL 4/13/2021	
Date/Time CV Reported Sun, 03/03/2019 9:05 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 03/03/2019 9:05 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Milton Sanchez	25931	941136	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jon Westendorf	15415	941256	032 PCT
2. DTS Salahudin Clark	00796	941566	032 PCT
3. POM Vincent Ciccolella	20819	958409	032 PCT
4. POM Willis Reyes	16494	958001	032 PCT
5. POM Christian Balbi	05762	951520	032 PCT
6. POM Jonathan Narvaez	25389	946524	032 PCT
7. DT2 Osvaldo Collado	03753	905975	032 PCT
8. POM Keith Hall	15642	944076	032 PCT
9. POM Albert Huh	15906	957690	032 PCT
10. CPT Neil Zuber	00000	931483	020 PCT
11. INS Vincent Greany	00000	926905	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Milton Sanchez	Force: Police Officer Milton Sanchez used physical force against § 87(2)(b)	
B.POM Milton Sanchez	Abuse: Police Officer Milton Sanchez threatened § 87(2)(b) with the use of force.	
C.POM Milton Sanchez	Off. Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon race.	
D.POM Milton Sanchez	Off. Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
E.POM Milton Sanchez	Off. Language: Police Officer Milton Sanchez made remarks to individuals based upon race.	
F.POM Milton Sanchez	Off. Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon race.	
G.POM Milton Sanchez	Off. Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
H.POM Milton Sanchez	Off. Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

### Case Summary

On March 3, 2019, § 87(2)(b) filed this complaint online via the CCRB's website as a reporting non-witness, on behalf of her § 87(2)(b) son, § 87(2)(b). On March 9, 2019, § 87(2)(b) called 911 and was transferred to the IAB Command Center, with whom she filed a complaint about this incident by phone, generating original IAB log #19-9349. The CCRB received § 87(2)(b)'s complaint on March 22, 2019, under duplicate CCRB case #201902511. § 87(2)(b) is a reporting non-witness, as she saw a video of the incident on § 87(2)(b).

On February 27, 2019, shortly after 3 p.m., § 87(2)(b) was walking home from school on § 87(2)(b) in Manhattan with his friends § 87(2)(b) and § 87(2)(b). Many officers from the 32<sup>nd</sup> Precinct, including Police Officer Milton Sanchez, were dispersing students after numerous after-school student fights broke out. PO Sanchez grabbed § 87(2)(b) by his jacket near the collar with two hands and pulled him close, face-to-face (**Allegation A: Force**, § 87(2)(g)). PO Sanchez told § 87(2)(b) "I'm not playing with you. You hear me? I'm not playing with you. I'll hurt you. Just get out of here" (**Allegation B: Abuse of Authority**, § 87(2)(g)). When PO Sanchez said, "I'll hurt you," he also pushed § 87(2)(b) backwards (**Subsumed within Allegation A**). PO Sanchez allegedly called § 87(2)(b) a "nigga" (**Allegation C: Offensive Language**, § 87(2)(g)) and a "pussy" (**Allegation D: Offensive Language**, § 87(2)(g)). PO Sanchez also allegedly called § 87(2)(b) and § 87(2)(b) "niggers" (**Allegations E–F: Offensive Language**, § 87(2)(g)) and "pussies" (**Allegations G–H: Offensive Language**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were not arrested or issued any summonses regarding this incident.

The investigation obtained multiple versions of a cell phone video filmed by § 87(2)(b) (Board Review 01–03, summarized at Board Review 04), surveillance footage from the NYC Department of Education which did not capture the incident (available in proprietary file format at Board Review 05–06), and BWC footage which did not capture the incident (Board Review 07–14). PO Sanchez was equipped with a BWC on the incident date and improperly failed to activate it. However, he had only first received his BWC fewer than 90 days beforehand, so the investigation declined to cite him for his failure to activate the BWC.

§ 87(2)(g)

### Findings and Recommendations

**Allegation A—Force: Police Officer Milton Sanchez used physical force against § 87(2)(b).**

**Allegation B—Abuse of Authority: Police Officer Milton Sanchez threatened § 87(2)(b) with the use of force.**

It is undisputed that numerous officers from the 32<sup>nd</sup> Precinct, including PO Sanchez, responded to the vicinity of § 87(2)(b)'s school to address a raucous crowd and several student fights at the end of the school day. It is also undisputed that officers were dispersing the students and ordering them to go home. It is further undisputed that PO Sanchez and § 87(2)(b) had an interaction, part of which was captured on a video that soon went viral on

§ 87(2)(b)

The CCRB obtained multiple versions of the viral video, but the highest quality version is available at **Board Review 03**. This video shows § 87(2)(b) dressed in a black jacket with black-and-white sneakers, walking away from his school, a few feet in front of PO Sanchez. PO Sanchez says, “Let’s go. Shut up and move.” § 87(2)(b) turns around to face PO Sanchez. PO Sanchez grabs § 87(2)(b) by the lapel area with two hands and pulls him towards him, face-to-face, with such force that § 87(2)(b) is momentarily forced to stand on tiptoe. PO Sanchez says, “I’m not playing with you, you hear me? I’m not playing with you. I’ll hurt you.” PO Sanchez then fully extends both arms and pushes § 87(2)(b) away from him, causing him to stumble backwards but not fall. PO Sanchez then says, “Get outta here.” § 87(2)(b) responds, “Yeah, I know. Yeah, I know.”

The CCRB testimony of § 87(2)(b) (**Board Review 15**) and phone statements from two of his schoolmates, § 87(2)(b) (**Board Review 16**) and § 87(2)(b) (**Board Review 17**), were all consistent with the footage described above. The investigation was unable to establish contact with, or obtain statements from, the two students walking with § 87(2)(b) (unrelated to § 87(2)(b) and § 87(2)(b) (who recorded the above footage).

PO Sanchez (**Board Review 18**) recounted that he broke up several fights, including multiple involving § 87(2)(b) before the interaction in the above footage. PO Sanchez believed he could have arrested § 87(2)(b) for assault, disorderly conduct, and making threats to another student, but did not think it was appropriate to do so because of his age. Instead, PO Sanchez simply wanted him and the other students to go home, and he ordered them to do so. § 87(2)(b) repeatedly refused to comply with those commands. PO Sanchez described § 87(2)(b) as a “stubborn” “knucklehead,” who was “just not getting it.”

PO Sanchez acknowledged taking the actions shown in the above video, which he had first seen a few days after the incident when it went viral on § 87(2)(b). PO Sanchez described his mental state during the time depicted in the video as having had “enough of him,” referring to § 87(2)(b). While taking the actions shown on the video, PO Sanchez knew that he was being video recorded, based on how § 87(2)(b) was holding his cell phone.

PO Sanchez grabbed § 87(2)(b) and pulled him close solely because he needed to “make a point” to § 87(2)(b) because § 87(2)(b) had not been listening to PO Sanchez, and because § 87(2)(b) had verbally threatened another student earlier. When asked to account for telling § 87(2)(b) “I’ll hurt you,” PO Sanchez explained that he felt it necessary to “give a firm warning of the consequences if he didn’t leave. Not that I was going—physically going to hurt him, but that the fact is, you know, it—things just happen. But it wasn’t that I wanted to hurt the kid, I mean, like I said, he’s a kid. I just wanted to prove a point” to get § 87(2)(b) to leave. PO Sanchez pushed § 87(2)(b) away from him “so that he could leave,” and because § 87(2)(b) had not only refused to leave in response to prior commands but had also turned around to look at PO Sanchez. This, too, made PO Sanchez feel that he needed to “make a point” to § 87(2)(b) in lieu of arresting him.

“Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.” NYPD Patrol Guide Procedure 221-01 (**Board Review 19**).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation C—Offensive Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon race.**

**Allegation D—Offensive Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

**Allegation E—Offensive Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon race.**

**Allegation F—Offensive Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon race.**

**Allegation G—Offensive Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

**Allegation H—Offensive Language: Police Officer Milton Sanchez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

§ 87(2)(a) Gen.Mun. §50-H(3), § 87(2)(g)

As mentioned previously, the investigation was unable to establish contact with, or obtain statements from, § 87(2)(b) or § 87(2)(b)

§ 87(2)(b) s two classmates who gave testimony to the § 87(2)(b) (Board Review 16) and § 87(2)(b) (Board Review 17)—only mentioned noticing the physical altercation between PO Sanchez and § 87(2)(b) as described above. § 87(2)(b) and § 87(2)(b) heard some statements PO Sanchez made to § 87(2)(b) but these statements were neither profane nor offensive. They did not specifically allege or deny that PO Sanchez used offensive language in speaking with § 87(2)(b)

§ 87(2)(b) s mother, § 87(2)(b) did not witness this incident, but provided two phone statements (Board Review 21, 22). In the first, she recounted conversations she had shortly after the incident with § 87(2)(b) and the student who recorded the video, identified as § 87(2)(b). They told § 87(2)(b) that PO Sanchez called them “pussies” and “the n-word.” § 87(2)(b) obtained a copy of the video of the incident—which she provided to the CCRB, at Board Review 01—either from § 87(2)(b) or one of the students walking with § 87(2)(b). In the second phone statement, § 87(2)(b) recounted speaking with another student, the one wearing the red-white-and-blue jacket in the video. It is unclear if this is § 87(2)(b) or another student. This student simply told § 87(2)(b) that PO Sanchez told the students to keep walking, with no mention of profanity or offensive language.

§ 87(2)(b) another reporting non-witness, called 911 and filed a complaint about this incident with IAB after seeing a version of the viral video on § 87(2)(b). The IAB intake log for § 87(2)(b)'s complaint (**Board Review 23**) mentions that an officer called a student “pussy” and “nigger.” § 87(2)(b) sent the video that prompted her complaint to IAB, and the log notes that the video has no sound.

The CCRB obtained all of the digital media and video files included in the case file of NYPD’s concurrent investigation for this incident (available in a folder at **Board Review 24**). None of the videos obtained by the NYPD depicts any additional interactions between PO Sanchez and § 87(2)(b) besides those depicted in the versions of the video that the CCRB obtained itself (best quality version available at **Board Review 03**).

The CCRB did find a version of the video online—posted to the personal § 87(2)(b) page of a § 87(2)(b) § 87(2)(g)—with captions written onto the screen via § 87(2)(b) or § 87(2)(b) (copy downloaded directly from § 87(2)(b) available at **Board Review 25**; copy from the NYPD, as a cell phone recording of the computer screen, available at **Board Review 26**). This version of the video has a caption that reads, in reference to PO Sanchez: “He provoked § 87(2)(b) with the N-Word & P\*ssy.” The § 87(2)(b) § 87(2)(b) handle, indicating that he may have added the captions.

The investigation’s review of the available video evidence revealed that there is apparently no version of the video known to the CCRB, the NYPD, or the civilians involved in this case that actually depicts PO Sanchez using the alleged offensive language. § 87(2)(g)

PO Sanchez (**Board Review 18**) denied ever calling § 87(2)(b) or the other students walking near him: “pussy,” “pussies,” “nigga,” “nigger,” or “niggers.”

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first and only CCRB complaint in which § 87(2)(b) or § 87(2)(b) have been complainants/victims (**Board Review 27, 28**).
- Besides the duplicate complaint about this incident generated by the IAB log, this is the first and only CCRB complaint in which § 87(2)(b) has been involved (**Board Review 29**).
- PO Sanchez has been a member of service for 14 years, and has been named a subject in nine previous CCRB complaints and 23 allegations, three of which were substantiated:
  - Case #201402868 involved substantiated allegations of frisk and two searches of persons against PO Sanchez. The Board recommended Charges, and the NYPD imposed Formalized Training.
- § 87(2)(g)
- The NYPD conducted its own investigation into this incident, under IAB log #19-09349, and substantiated one allegation of force against PO Sanchez. The NYPD did not investigate the offensive language allegations. PO Sanchez received Command Discipline A (penalty of two days) for substantiated force. The NYPD’s investigation specifically found that PO Sanchez “exercised poor judgment” regarding use of force in this incident (see pg. 91 of the PDF at **Board Review 30**).

**Mediation, Civil and Criminal Histories**

- This case was unsuitable for mediation.
- § 87(2)(b) s mother, § 87(2)(b) filed a Notice of Claim on his behalf in the amount of \$50,000 (**Board Review 31**).
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

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Squad No.: #05

Investigator:	<u>Conor Seamus O'Shea</u>	<u>Investigator Conor O'Shea</u>	<u>September 9, 2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Daniel Giansante</u>	<u>Inv. Manager Daniel Giansante</u>	<u>September 15, 2020</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date